

APPENDIX A

LAWS, REGULATIONS, AND POLICY

A number of Federal statutes have been enacted over time to establish and define the authority of BLM to make decisions on the management and use of resources on public land. Following is a list of major legal authorities relevant to BLM land use planning, in addition to NEPA.

1. The Federal Land Policy and Management Act of 1976 (FLPMA), as amended, 43 U.S.C. 1701 *et seq.*, provides the authority for BLM land use planning.
Sec. 102 (a) (7) and (8) sets forth the policy of the United States concerning the management of BLM lands.
Sec. 201 requires the Secretary of the Interior to prepare and maintain an inventory of all BLM lands and their resources and other values, giving priority to areas of critical environmental concern (ACECs); and, as funding and workforce are available, to determine the boundaries of the public lands, provide signs and maps to the public, and provide inventory data to State and local governments.
Sec. 202 (a) requires the Secretary, with public involvement, to develop, maintain, and when appropriate, revise land use plans that provide by tracts or areas for the use of the BLM lands.
Sec. 202 (c) (9) requires that land use plans for BLM lands be consistent with tribal plans and, to the maximum extent consistent with applicable Federal laws, with State and local plans.
Sec. 202 (d) provides that all public lands, regardless of classification, are subject to inclusion in land use plans, and that the Secretary may modify or terminate classifications consistent with land use plans.
Sec. 202 (f) and Sec. 309 (e) provide that Federal, State, and local governments and the public be given adequate notice and opportunity to comment on the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for the management of the public lands.
Sec. 302 (a) requires the Secretary to manage the BLM lands under the principles of multiple use and sustained yield, in accordance with, when available, land use plans developed under Sec. 202 of FLPMA, except that where a tract of BLM lands has been dedicated to specific uses according to any other provisions of law, it shall be managed in accordance with such laws.
Sec. 302 (b) recognizes the entry and development rights of mining claimants, while directing the Secretary to prevent unnecessary or undue degradation of the public lands.
2. The Clean Air Act of 1990, as amended, 42 U.S.C. 7418, requires Federal agencies to comply with all Federal, State and local requirements regarding the control and abatement of air pollution. This includes abiding by the requirements of State Implementation Plans.
3. The Clean Water Act of 1987, as amended, 33 U.S.C. 1251, establishes objectives to restore and maintain the chemical, physical, and biological integrity of the Nation's water.

4. The Federal Water Pollution Control Act of 1948, 33 U.S.C. 1323, requires the Federal land manager to comply with all Federal, State, and local requirements, administrative authority, process, and sanctions regarding the control and abatement of water pollution in the same manner and to the same extent as any non-governmental entity.
5. The Safe Drinking Water Act of 1974, 42 U.S.C. 201, is designed to make the Nation's waters "drinkable" as well as "swimmable." Amendments in 1996 establish a direct connection between safe drinking water and watershed protection and management.
6. The Endangered Species Act (ESA) of 1973, as amended, 16 U.S.C. 1531 et seq.:
 - a. Provides a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and to provide a program for the conservation of such endangered and threatened species (Sec. 1531 (b), Purposes).
 - b. Requires all Federal agencies to seek to conserve endangered and threatened species and utilize applicable authorities in furtherance of the purposes of the Endangered Species Act (Sec. 1531 (c) (1), Policy).
 - c. Requires all Federal agencies to avoid jeopardizing the continued existence of any species that is listed or proposed for listing as threatened or endangered or destroying or adversely modifying its designated or proposed critical habitat (Sec. 1536 (a), Interagency Cooperation).
 - d. Requires all Federal agencies to consult (or confer) in accordance with Sec. 7 of the ESA with the Secretary of the Interior, through the Fish and Wildlife Service and/or the National Marine Fisheries Service, to ensure that any Federal action (including land use plans) or activity is not likely to jeopardize the continued existence of any species listed or proposed to be listed under the provisions of the ESA, or result in the destruction or adverse modification of designated or proposed critical habitat (Sec. 1536 (a), Interagency Cooperation, and 50 CFR 402).
7. The Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 *et seq.*, requires the Federal land management agencies to identify potential river systems and then study them for potential designation as wild, scenic, or recreational rivers.
8. The Wilderness Act, as amended of 1964, 16 U.S.C. 1131 *et seq.*, authorizes the President to make recommendations to the Congress for Federal lands to be aside for preservation as wilderness.
9. The Antiquities Act of 1906, 16 U.S.C. 431-433, protects cultural resources on Federal lands and authorizes the President to designate National Monuments of Federal lands.
10. The National Historic Preservation Act (NHPA) of 1966, as amended, 16 U.S.C. 470, expands protection of historic and archeological properties to include those of national, State, and local significance and directs Federal agencies to consider the effects of proposed actions on properties eligible for or included in the National Register of Historic Places.

11. The American Indian Religious Freedom Act of 1978, 42 U.S.C. 1996, establishes a national policy to protect and preserve the right of American Indians to exercise traditional Indian religious beliefs or practices.
12. The Native American Graves Protection and Repatriation Act of 1990, 25 USC 3001, provides for the protection of Native American graves, and other purposes.
13. The Recreation and Public Purposes Act of 1926, as amended, 43 U.S.C. 869 *et seq.*, authorizes the Secretary of the Interior to lease or convey BLM lands for recreational and public purposes under specified conditions.
14. The Federal Coal Leasing Amendments Act of 1976, 30 U.S.C. 201 (a) (3) (A) (i), requires that coal leases be issued in conformance with a comprehensive land use plan.
15. The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, requires application unsuitability criteria prior to coal leasing and also to proposed mining operations for minerals or mineral materials other than coal.
16. The Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.*, authorizes the development and conservation of oil and gas resources.
17. The Onshore Oil and Gas Leasing Reform Act of 1987, 30 U.S.C. 181 *et seq.*, provides:
 - e. Potential oil and gas resources be adequately addressed in planning documents;
 - f. The social, economic, and environmental consequences of exploration and development of oil and gas resources be determined; and
 - g. Any stipulations to be applied to oil and gas leases be clearly identified.
18. The General Mining Law of 1872, as amended, 30 U.S.C. 21 *et seq.*, allows the location, use and patenting of mining claims on sites on public domain lands of the United States.
19. The Mining and Mineral Policy Act of 1970, 30 U.S.C. 21a, establishes a policy of fostering development of economically stable mining and minerals industries, their orderly and economic development, and studying methods for disposal of waste and reclamation.
20. The Taylor Grazing Act of 1934, 43 U.S.C. 315, “[T]he Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto...of vacant unappropriated and unreserved lands from any part of the public domain...which in his opinion are chiefly valuable for grazing and raising forage crops[.]....” The Act also provides for the classification of lands for particular uses.
21. The Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901, provides that the public rangelands be managed so that they become as productive as feasible in accordance with management objectives and the land use planning process established pursuant to 43 U.S.C. 1712.
22. The Wild, Free Roaming Horse and Burro Act of 1971, 16 U.S.C. 30, provides for management and protection of wild, free roaming horses and burros on public lands.

23. Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), 49 *Fed. Reg.* 7629 (1994), requires that each Federal agency consider the impacts of its programs on minority populations and low income populations.
 24. Executive Order 13007-1996 (Indian Sacred Sites), 61 *Fed Reg.* 26771, requires Federal agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions to:
 - h. Accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners; and
 - i. Avoid adversely affecting the physical integrity of such sacred sites.
 25. Executive Order 13084-1998 (Consultation and Coordination with Indian Tribal Governments) provides, in part, that each Federal agency shall establish regular and meaningful consultation and collaboration with Indian tribal governments in development of regulatory practices on Federal matters that significantly or uniquely affect their communities.
 26. Executive Order 13112-1999 (Invasive Species) provides that no Federal agency shall authorize, fund or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk or harm will be taken in conjunction with the actions.
 27. Secretarial Order 3175-1995 (incorporated into the Departmental Manual at 512 DM 2) requires that if Department of the Interior (DOI) agency actions might impact Indian trust resources, the agency explicitly address those potential impacts in planning and decision documents, and the agency consult with the tribal government whose trust resources are potentially affected by the Federal action.
- Secretarial Order 3206-1997 (American Indian Tribal Rights, Federal –Tribal Trust Responsibilities, and the Endangered Species Act) requires DOI agencies to consult with Indian Tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect of Indian lands, tribal trust resources, or the exercise of American Indian tribal rights.